



INFORMATION
FOR WORKPLACES AND
LICENSED PREMISES

**Open and
internal areas**

OFFENCES AND FINES

From 10 December 2004 failure to take all reasonably practicable steps to prevent someone from smoking in an internal area in a workplace or licensed premises may result in a maximum fine of \$400 for individual employers, and \$4,000 for body corporates.

ENFORCEMENT

From March 2004 designated Enforcement Officers have limited enforcement powers to investigate complaints, for example, to:

- enter and inspect premises at a reasonable time
- take photographs and/or videos
- take air samples.

OBSTRUCTION

The maximum fine for obstructing an Enforcement Officer exercising their powers or failing to provide the information required is **\$1,000**.

FURTHER INFORMATION

This information is a guide only, and may not be accurate for all situations. It should not be used as a substitute for legal or other expert advice.

For further information on tobacco, health and the Smoke-free Environments Act 1990 contact:

www.ndp.govt.nz/smokefreelaw.html

www.moh.govt.nz

www.healthed.govt.nz

The Public Health Service at your local District Health Board.

Public Health Service contact details:



REQUIREMENTS OF THE SMOKE-FREE ENVIRONMENTS ACT 1990



INFORMATION FOR EMPLOYERS AND LICENSEES

Three-quarters of New Zealanders do not smoke, but many are exposed to the significant health risks of second-hand smoke. The Smoke-free Environments Amendment Act 2003 extends the protections for workers, volunteers and the public, particularly against exposure to second-hand smoke. The intention is to send a positive message about a smoke-free/auahi kore lifestyle being both desirable and the norm.

KEY AREAS FOR WORKPLACES AND LICENSED PREMISES

From 10 December 2004 the Smoke-free Environments Act 1990 requires all internal areas of workplaces, licensed premises and certain public enclosed premises to become smoke-free. Smoking is only legally permitted in open areas, although proprietors may choose to prohibit smoking in these areas as well.

The following information includes a definition of internal and open areas and premises, a guide to compliance, and offences and fines.

A DEFINITION OF INTERNAL AND OPEN AREAS AND PREMISES

An internal area, in relation to any premises or vehicle, means an area within or on the premises or vehicle that, when all its doors, windows, and other closeable openings are closed, is completely or substantially enclosed by:

- a ceiling, roof, or similar overhead surface; and
- walls, sides, screens, or similar surfaces; and
- those openings.

An open area, in relation to any premises, means a part of the premises that is not an internal area.

A premises, includes:

- a building
- a piece of land
- a building and land together
- a part of the building or land, and
- any structure or shelter (or similar thing).

A GUIDE TO COMPLIANCE

The Ministry will interpret and apply the 'internal' and 'open' area definitions in accordance with the stated purpose of Part 1 of the Smoke-free Environments Act 1990. That purpose is:

- to prevent the detrimental effect of other people's smoking on the health of people in workplaces, or in certain public enclosed areas, who do not smoke or do not wish to smoke there.

The Ministry considers that this purpose will be achieved if a space's natural ventilation is sufficient to replace smoke-laden air with fresh air at a rate that will prevent detrimental health effects on non-smoking users of the space. This is the criteria the Ministry will use to determine whether a space is 'completely or substantially enclosed'.

The Ministry has developed a mathematical model to determine the rate at which fresh air naturally enters a space. Factors the model takes into account include:

- the area of any openings in the walls or roof of a space, relative to its floor area;
- the distribution of those openings on the walls and/or roof of a space;
- the permeability of any openings or surface materials.

The model is based on several assumptions, including:

- a fixed occupancy per square metre of floor area in the space;
- 'calm' outdoor wind conditions.

When determining whether a space is 'substantially enclosed' the Ministry will consider, in addition to output from the model:

- whether a space has any ceiling or overhead surface; and
- whether a space has two or more walls, sides, screens or similar surfaces.

Both the model and input templates for it are available at the Smokefree website:
http://www.smokefreelaw.co.nz/fictitious_extension

For further information, please visit:
http://www.smokefreelaw.co.nz/another_fictitious_extension